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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF STATES OF EMERGENCY

Written statement* submitted by North South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 January 2001]

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* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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1. Since the outbreak of the El Aqsa intifada on 28 September 2000 in the Palestinian territories occupied since 1967, the Israeli occupying forces have committed serious violations of the Palestinian people's rights. For the first time since the Israeli occupation began, Israel has used lethal measures (helicopters, tanks and artillery) against unarmed Palestinian civilians. Their targets are towns and villages - at times a dozen towns in less than 24 hours. The Israeli occupation was already characterized by crimes against Palestinian civilians and gross violations of the fourth Geneva Convention, such as settlement activities, torture, confiscation of land, forced displacement, assassination and destruction of property, but since 28 September 2000, the Israelis have added to that list of crimes the deliberate murder of Palestinian civilians; abuse and disproportionate use of force; collective punishment of civilians, including total closure of Palestinian towns and villages and, in particular, isolation of the occupied territories by closing the airport and international border crossings; wholesale destruction of possessions and property; and an unprecedented policy of economic strangulation.

2. The crimes committed by the Israeli occupying force against Palestinian civilians represent serious violations of international humanitarian law and particularly the fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. Israel's policy is clearly to step up the violence. Suffice it to note the fact that the number of martyrs and wounded among the Palestinian civilian population during the first six weeks of the intifada is equal to the number of victims during the eight months of the 1987 intifada. The likelihood that such a situation will deteriorate and that further massacres of the Palestinian people will occur is very high, especially as, for 50 years, the Israeli occupation has gained a sinister notoriety for such crimes. Crimes of this kind generally provide a "way out" at times of political crisis or when it becomes impossible to deal with the people's revolt against the occupation. Waiting until the situation develops into another Kosovo or Bosnia Herzegovina, i.e. into massacre and ethnic cleansing of the Palestinian people, is unacceptable. Fresh action is urgently needed, through the legal and humanitarian institutions, to ensure the effective international protection of the Palestinian people in the occupied territories, for our analysis of the situation gives reason to fear the worst.

3. *Legal basis for protection*: There is a sound legal basis for protection, to be found chiefly in the fourth Geneva Convention, the Charter of the United Nations and the general principles for cooperation in international security and peacekeeping. Many lives will be saved by pressing for the protection of the Palestinian people in the occupied territories. Articles 1, 9, 10, 11, 12, 30, 143, 146 and 147 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, dated 12 August 1949, constitute a clear, unequivocal legal basis for the international protection of civilians. It is now of the utmost importance to implement the fourth Geneva Convention, particularly in the light of the latest political and legal developments following the Oslo accords signed by the Palestine Liberation Organization (PLO) and the Israeli Government, which aimed at initiating a process of confidence-building between the two parties to the conflict and reaching a final agreement on the Palestine-Israeli conflict no later than 4 May 1999. However, the Oslo accords have not had the expected results. On the contrary, as a number of human rights organizations point out, what we have is a policy of blatant racism and apartheid vis-à-vis the Palestinian people.

4. The fourth Geneva Convention is the principal benchmark in determining the legal status of the occupied Palestinian territories. Israel continues to refuse to recognize that the territories have been occupied since 1967 and therefore considers that the agreements signed between PLO and the Israeli Government do not affect the legal status of the occupied Palestinian territories. The basic point to establish is that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable in law, that the Israeli forces are occupying forces and the Palestinian territories are occupied territories. The final status of the Palestinian territories occupied since 1967 should therefore be determined in accordance with the Convention, and all Israeli objectives and claims rejected.

5. Discussion of settlement issue and the annexation of Jerusalem was put off until the final stage of the negotiations. In fact, under the fourth Geneva Convention, the settlements and the annexation of Jerusalem are illegal. It is vital to take this approach in order to establish the Palestinian people's legitimate political and legal rights. A major step forward was taken in 1998-1999, when the United Nations General Assembly adopted a series of resolutions stating the international community's position on the legal applicability of the fourth Geneva Convention in the occupied territories. There were five resolutions: ES-10/2 of 20 March 1998 and resolutions ES-10/3, ES-10/4, ES-10/5 and ES-10/6. They called on the High Contracting Parties to the Convention to comply with their legal obligations under the Convention and, in particular, under article 1. In the last of these resolutions, dated 9 February 1999, the General Assembly called for a meeting of the conference on measures to enforce the Convention in the occupied territories to be held on 15 July 1999. The meeting was duly held on 15 July 1999, but as a result of shameless American pressure on the High Contracting Parties and Europe's self-imposed silence, it lasted no more than 10 minutes and was followed by a brief communiqué that dashed all hopes. The circumstances surrounding this meeting show how politicized international law and the fourth Geneva Convention have become; this is ironic, since this year is the fiftieth anniversary of the signing of the Convention. In effect, the parties, claiming that the Israeli Government under Barak's leadership was a "Government of peace", failed to produce any mechanisms that might allow them to fulfil their legal obligations.

6. *The Security Council*: In accordance with the Charter of the United Nations, clear and explicit mention is made of ensuring the protection of civilians, in order to maintain international peace and security. The Security Council has primary responsibility for the maintenance of international peace and security. It is able to function continuously and each member of the Security Council must be represented at United Nations Headquarters at all times. If a dispute that may represent a threat to peace is brought before the Security Council, the Council calls upon the parties to settle the dispute by peaceful means. In certain cases, the Council may itself investigate or proceed to mediation, or appoint two special representatives or request the Military Staff Committee to do so, or may offer its good offices. It may also establish the basis for a peaceful settlement. If a dispute develops into an armed conflict, the Council must make every effort to stop it as soon as possible. The Council may also send peacekeeping forces into conflict zones in order to prevent the situation worsening and to create a climate conducive to a peaceful solution. The Council may also take executive action or impose economic sanctions (such as a trade embargo) or take military action.

7. The continuing serious violations of human rights and of the fourth Geneva Convention that are being perpetrated in the occupied territories are a threat not only to the Palestinian people but to international peace and security as well. We believe it is essential to work together to revive the cooperation among all those who stand on the side of international humanitarian law, particularly the fourth Geneva Convention, at both the regional and international levels, and with the relevant international institutions, in order to put an end to the serious violations that are taking place and ensure international protection for the Palestinian people. It will therefore be necessary to bring the High Contracting Parties together once more and, by various means and forms of pressure, persuade them to guarantee international protection for the Palestinian people. We too must become active once more and support PLO's current efforts. On 6 November 2000, PLO submitted a working paper to the Security Council emphasizing the need to place international forces in the occupied territories as a means of protecting the Palestinian people. The paper refers to the Charter of the United Nations and aims to ensure international peace and security for Palestinian civilians under occupation, the free movement of persons and goods, and freedom of worship for the Palestinians. On her recent visit to the occupied Palestinian territories, Ms. Mary Robinson, having seen the catastrophic situation of the Palestinian people and the flagrant gross violations inflicted on them, confirmed that she was personally committed to ensuring the protection of the Palestinian people, in accordance with her prerogatives as High Commissioner.

8. *The importance of international protection*: First and foremost, it is essential to force the Israeli authority to fully and explicitly recognize the need to implement the Convention in the occupied territories, and to reject all Israeli designs which have no basis in law; to ensure the presence of international protection forces, which should be deployed up to the 4 June 1967 borders and throughout the Palestinian territories, which in practice means defining the borders with Israel and compelling Israel to accept the borders of the Palestinian State in accordance with resolutions 242 and 338 concerning the peace processes; to ensure protection for Palestinian civilians in accordance with the fourth Geneva Convention and demand an immediate halt to the serious violations they are suffering or may suffer in the future; and to reject any imposition of international control and make a clear distinction between international protection and international control.

9. After more than 50 years of tragedy for the Palestinians, there is now an urgent need to put a stop to the serious violations committed by the Israeli occupying force against the Palestinian people and to recognize that people's legitimate rights. These rights must be based on international law and international humanitarian law, and must ensure the international protection of the Palestinian people and recognition of its right to self-determination and return, and to a Palestinian State with Jerusalem as its capital.